



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

February 11, 1985

You ask whether the sale of a moisture sensitive alarm device used to correct bedwetting is subject to the Massachusetts sales tax. The alarm device, a nocturnal enuresis unit, is placed in a child's bed to correct the bedwetting problem, and is purchased or rented with or without a physician's prescription.

Massachusetts General Laws Chapter 64H, Section 2 imposes an excise on the sales at retail of tangible personal property in Massachusetts. A sale is defined as any transfer of title or possession for consideration, including a rental. (G.L. c. 64H, § 1(12)(a)).

Section 6(1) of Chapter 64H in pertinent part exempts from the sales tax "[s]ales of medicine ... on prescriptions of registered physicians and sales of ... equipment worn as a correction or substitute for any functioning portion of the body...."

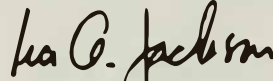
The nocturnal enuresis unit is not considered a medicine nor is it worn as a correction or substitute for a functioning portion of the body.

Therefore, the sale or rental of a nocturnal enuresis unit with or without a physician's prescription is subject to the Massachusetts sales tax.

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Chapter 409 of the Acts of 1984 amending Chapter 64H, Section 6(1) of the Massachusetts General Laws, effective March 27, 1985, will broaden the list of exempt medical equipment. This amendment will not alter the Massachusetts tax treatment of nocturnal enuresis units.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lisa G. Johnson". The signature is written in a cursive, flowing style.

Commissioner of Revenue

IAJ:SFR:loc

LR 85-21